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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 KAREN J. FAASUAMALIE,
11 Plaintiff,

CASE NO. C07-5690RJB-KLS

12 v.

ORDER

13 MICHAEL J. ASTRUE, Commissioner of
14 Social Security,
15 Defendant.

16
17 This matter come before the Court on the Report and Recommendation (Dkt. 17) of Judge Karen
18 L. Strombom, United States Magistrate Judge. The Court has reviewed the plaintiff's complaint (Dkt. 3),
19 the Report and Recommendation (Dkt. 17), the Commissioner's objections to the report and
20 recommendation (Dkt. 18), Plaintiff's response to the objections (Dkt. 19), and the remaining record
21 herein.

22 Judge Strombom recommends that the administrative law judge's (ALJ) finding that Plaintiff was
23 not disabled should be reversed and the matter should be remanded for further administrative proceedings.
24 Dkt. 17 at 18. The Commissioner objects to a complete reversal of the ALJ's decision. Dkt. 18. The
25 Commissioner contends that the "Magistrate [Judge] did not recommend overturning the ALJ's findings
26 that related to Plaintiff's condition prior the [sic] lapsing of her insurance coverage, December 31, 2000."
27 *Id.* 2. It is undisputed that one requirement of disability insurance benefits is that Plaintiff have an onset
28 date of disability before her insurance has lapsed. *See id* at 1; Dkt. 19 at 3. The Commissioner argues that,

1 because the ALJ erred by failing to consider medical evidence after the date Plaintiff's insurance lapsed,
2 such errors would not affect the ALJ's previous denial of Plaintiff's disability insurance benefits. Dkt. 18
3 at 1-2.

4 Plaintiff argues that determining the onset date at this juncture is premature. Dkt. 19 at 3. Plaintiff
5 has alleged disability as of September 15, 1999. Dkt. 17 at 2 (citing Tr. 17, 61-63, 71, 317-20). Social
6 Security Regulation ("SSR") 83-20 (1983) provides in relevant part that:

7 [i]n determining the date of onset of disability, the date alleged by the individual
8 should be used if it is consistent with all the evidence available.... [T]he established onset
9 date must be fixed based on the facts and can never be inconsistent with the medical
evidence of record.

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11 In some cases, it may be possible, based on the medical evidence to reasonably infer that the
onset of a disabling impairment(s) occurred some time prior to the date of the first recorded
medical examination, e.g., the date the claimant stopped working.


12 Plaintiff argues that, should the ALJ find that Plaintiff is disabled, the ALJ may determine an onset date
13 consistent with Plaintiff's alleged date or possibly earlier based on the medical evidence in the record. Dkt.
14 19 at 3. Plaintiff is correct. Defendant's request to limit the onset date of Plaintiff's possible disability
15 before the ALJ determines whether Plaintiff is actually disabled is unpersuasive.

16 Therefore, it is hereby

17 **ORDERED** that:

- 18 (1) the Commissioner's objections are **OVERRULED**;
- 19 (2) the Court **ADOPTS** the Report and Recommendation;
- 20 (3) the ALJ erred in his decision as described in the report;
- 21 (4) the matter is therefore **REVERSED** and remanded to the Commissioner for further
22 administrative proceedings; and
- 23 (5) the Clerk is directed to send copies of this Order to plaintiff's counsel, defendant's counsel
24 and Magistrate Judge Karen L. Strombom.

25 DATED this 4th of August, 2008.

26 
27 ROBERT J. BRYAN
28 United States District Judge